North Andover Bylaw Development

The following pages trace the legal path of authority for the regulation of solid waste and recycling from State law (Mass. General Laws, Chapter 16, Section 20) through State agency regulations (the Mass. Department of Environmental Protection's "Waste Ban" regulations at 310 CMR 19.017 of the General Requirements), to the North Andover General Bylaws and the North Andover DPW's recycling information.

It is important to note that State law and regulations take precedence over Town Bylaws and practices. Bylaws may provide for additional local regulation but may not reduce or alter State law and regulations. All the bans on what may be put in the trash have been State law for over a decade and have applied with full force to North Andover, regardless of the fact that our local bylaws were just brought into compliance in May of this year.

Further, all 3 levels of the above solid waste laws and regulations "are restrictions on the disposal and transfer for disposal of certain hazardous and recyclable items at solid waste facilities in Massachusetts", not requirements on what people must do with their recyclable materials. To put a banned item into the trash is implicitly banned by the State and explicitly by the Town bylaws. Neither of those, however, tell you what you must do with those banned materials. Some options are:

- Turn them in at the market for the deposit (beverage containers)
- > Sell them to a recycler (they pay for most bulk metals (copper, iron, etc.))
- Recycle them yourself (melt aluminum and mould your own yard ornaments)
- > Save them in your garage
- Mail them back to the manufacturer (smoke detectors, printer cartridges, etc.)
- Take them to a retailer who provides recycling (Radio Shack recycles batteries)
- > Donate certain recyclable items to your church or school (used ink jet cartridges)
- > If accepted, put into the Town's recycling service

I can find no law, regulation, or bylaw that supports the assertion that "recycling is mandatory", what is mandatory is that you not dispose of banned materials in the trash.

Each law or regulation or bylaw or informational document that I reference is available through the Internet, and I have provided links to all. I have checked those links as of the date of this document and they are accurate.

Waste Bans and Recycling

The Mass. General Laws, Chapter 16, Section 20 (www.state.ma.us/legis/laws/mgl/16-20.htm) empowers the Mass. Department of Environmental Protection to "promulgate rules and regulations relating to the storage, collection, transfer, and disposal of solid waste".

The Mass. Department of Environmental Protection, at its web site at www.state.ma.us/dep/bwp/dswm/files/310cmr19.htm#017, shows the legal language of the various types of restrictions and their effective dates, "No person shall dispose, transfer for disposal, or contract for disposal of the restricted material ..." as trash, and, at .../wbgidy2k.doc, has a 'Frequently Asked Questions' section that fully explains the Waste Bans in plain English as follows:

This document summarizes the Department of Environmental Protection's (DEP) "waste ban" regulations at 310 CMR 19.017 of the General Requirements, ...

QUESTIONS AND ANSWERS

Q. What are the "Waste Bans"?

A. The "Waste Bans" are restrictions on the disposal and transfer for disposal of certain hazardous and recyclable items at solid waste facilities in Massachusetts. The bans are located in the state's solid waste facility management regulations, 310 CMR 19.017. Listed below are the restricted materials and their definitions.

MATERIAL	MATERIAL DEFINITION
Recyclable Paper Effective date 12/31/94	All paper, cardboard, and paperboard products excluding tissue paper, toweling, paper plates, cups, and other low-grade paper products which become unusable to paper mills as a result of normal intended use (e.g., office paper, newspapers, unwaxed cardboard and cereal boxes, but not used paper towels).
Metal Containers Effective date 4/1/93	Aluminum, steel or bi-metal beverage and food containers.
Glass Containers Effective date 4/1/93	Glass bottles and jars excluding light bulbs, plate glass, ceramics, Pyrex cookware, drinking glasses, windows, and windshields.
Single Resin Narrow- necked Plastics Effective date 12/31/94	All narrow-necked plastic containers of any resin type. In narrow-necked containers the diameter of the opening is smaller than the diameter of the base (e.g., a soda bottle is "narrow-necked", but a yogurt container is not).
Lead-acid Batteries Effective date 12/31/90	Lead-acid batteries used in motor vehicles or stationary applications.
Leaves and Yard Waste Effective date 12/31/91	Deciduous and coniferous leaves, grass clippings, garden materials, shrub trimmings, and brush up to one inch in diameter.
Whole Tires (landfills only) Effective date 12/31/91	Whole car and truck tires of all types. A tire can be landfilled only if it has been shredded or ground into at least four pieces so that it no longer has a circular shape. Combustion facilities and transfer stations can accept whole tires.
White Goods Effective date 12/31/91	An appliance employing electricity, oil, natural gas or liquefied petroleum gas to preserve or cook food, to wash or dry clothing, cooking or kitchen utensils or related items, or to cool or heat air or water. These include refrigerators, freezers, dish washers, clothes washers, clothes dryers, gas or electric ovens and ranges, and hot water heaters.(310 CMR 19.006)
Cathode Ray Tubes (CRTs) Effective date 4/1/00	Any intact, broken, or processed glass tube used to provide the visual display in televisions, computer monitors and certain scientific instruments such as oscilloscopes. (310 CMR 19.006)

Note: Other state and federal regulations limit and/or ban the disposal of additional materials at solid waste combustion facilities, landfills and transfer stations. Examples of these materials include hazardous wastes (as defined in 310 CMR 30), and infectious wastes (as defined in 105 CMR 480).

At http://www.townofnorthandover.com/towndocs.html the North Andover General Bylaws, as updated by Article 32 of the May 10, 2004 Annual Town Meeting (townofnorthandover.com/MAY%2010%202004%20ANNUAL%20TOWN%20MEETING%20MINUTES-JAB.pdf), provide:

TOWN OF NORTH ANDOVER – GENERAL BYLAWS DIVISION 1 - TOWN MEETINGS ENACTMENTS

Chapter 115

GARBAGE, RUBBISH AND REFUSE

[HISTORY: Adopted by the Town of North Andover 11-24-80 Special Town Meeting, Article 1. Amendments noted where applicable.]

- § 115-1 Weekly Collection
- § 115-2 Placement of Refuse for Pickup
- § 115-3 Commercial, Business or Industrial Complex
- § 115-4 Responsibility of Building Owners
- § 115-5 Refuse Restricted Activity
- § 115-6 Penalties

<u>§ Weekly Collection.</u>

[Amended: Annual Town Meeting May 9, 1990, Article 27] [Amended Article 22 2001 Annual Town Meeting. Approved by Attorney General September 12, 2001]

The Division of Public Works shall each week collect the refuse and trash of:

- **A.** Each detached single-family residence and each multiple dwelling that:
 - 1. Contains fewer than nine (9) living units; and
 - 2. Is not part of any apartment or condominium complex containing nine (9) living units or more.
 - **3.** Not withstanding the foregoing, the Town will provide customary residential trash pick-up for the residential units of Village Green at North Andover Condominium Trust, which are located on duly excepted public ways. Not withstanding the forgoing, the Town will provide customary residential trash pick up for the owner occupied Town House Homes of Andrew Circle. Townhouse Homes is a non-profit organization of 8 residential units per building (3 buildings total).
- **B.** Each building used for commercial, business or industrial purposes where the amount of refuse produced is no more than eight (8) thirty gallon barrels per week and the building is not commercial, business or industrial complex.

§115-2 Placement of Refuse for Pickup

Service will be provided only if the refuse and trash is placed on the side of the highway in front of said residence or multiple dwelling or building.

§115-3 <u>Commercial, Business or Industrial Complex</u>

Any building or aggregation of buildings (such as a shopping mall, industrial park, office complex or other like development) containing four (4) or more businesses, industries or commercial enterprises shall be deemed to constitute a commercial, business or industrial complex for purposes of this chapter if legal title to the building or aggregation of buildings is in single, joint or common ownership.

§115-4 Responsibility of Building Owners.

It shall be the duty of each owner of a multiple-dwelling building or apartment or condominium complex containing nine (9) living units or more and each owner of a building utilized for commercial, business or industrial purposes which does not qualify for trash pickup under the criteria set forth in Section 115-B to cause to be removed at his own cost and expense all refuse and trash produced therein.

§115-5 Refuse Restricted Activity

[Amended: Annual Town Meeting May 3, 1993, Article 42] [Amended: Annual Town Meeting May 10, 2004, Article 37]

To maintain compliance with the State solid waste facility regulation 310 CMR 19.017 the Town of North Andover enacts a mandatory bylaw which states that the following will not be allowed in the garbage, rubbish and refuse/trash and the Town of North Andover directs its contracted waste hauler or any party responsible for municipal waste pickup not to pick up visible recycling at curbside, and these items will include the items in the following paragraphs:

Glass Containers: Glass bottles and jars (soda-lime glass) but excluding light bulbs, Pyrex cookware, plate glass, drinking glasses, windows, windshields and ceramics.

Metal Containers: Aluminum steel or bi-metal beverage and food containers, including scrap metal.

Yard Waste: Grass clippings, weeds, garden materials, shrub trimmings, and brush 1" or less in diameter (excluding diseased plants);

Leaves: Deciduous and coniferous leaf deposition;

Lead Acid/Batteries: Lead-acid batteries used in motor vehicles or stationary applications;

White Goods: Large appliances including: refrigerators, freezers, dish washers, clothes dryers, gas or electric ovens and rangers, and hot water heaters;

Whole Tires: Unshredded motor vehicle tires of all types. (A shredded tire is a tire which has been cut, sliced, or ground into four or more pieces such that the circular form of the tire has been eliminated.)

Single Resin Narrow necked plastic – All narrow-necked plastic containers of any resin type. In narrow-necked containers the diameter of the opening is smaller than the diameter of the base (e.g., a soda bottle is "narrow-necked", but a yogurt container is not).

Recyclable Paper – all paper, cardboard, and paperboard products (e.g office paper, newspaper, unwaxed cardboard and cereal boxes) excluding tissue paper, toweling, paper plates, cups, and other low-grade paper products which become unusable to paper mills as a result of normal intended use. (e.g. used paper towels).

Cathode Ray Tubes (CRT's) – Any intact, broken, or processed glass tube used to provide the visual display in televisions, computer monitors and certain scientific instruments such as oscilloscopes. (310 CMR 19.006)

§115-6 Penalties

[Amended ATM 5-3-93, Article 42]

Any or all of the items in 115-5 commingled with garbage, rubbish, or refuse will be reason for the Division of Public Works or its agents to refuse to pick up such commingled items from that dwelling.

[end of Chapter 115] ...

Chapter 147 RECYCLING

[HISTORY: Adopted by the Town of North Andover as Chapter 5, Section 5.5 of the General Bylaws. Amendments noted where applicable.]

§ 147-1 Unauthorized Removal of Materials to be Recycled Prohibited GENERAL REFERENCES

Garbage, rubbish and refuse - See Chapter 115.

§147-1 Unauthorized Removal of Materials to be Recycled Prohibited.

The removal from a public sidewalk, way or any usual point of residential rubbish pickup, of any material specifically set apart from ordinary household rubbish for the purpose of being recycled, under the recycling program of the town, by any persons other than those properly authorized to pick up such material, is hereby expressly prohibited.

[end of Chapter 147] ... [end of bylaws]

At http://www.northandoverwaterdept.com/recycle%20&%20solid%20waste.htm the North Andover Division of Public Works describes our recycling program. That same information is printed and distributed to all residences once a year in the Warrant booklet (http://townofnorthandover.com/05.10tmwarrant.pdf, pages labeled 32-33 and 63):

		Recycling Informat	on	Monday, May 10, 20				
2004 CURBSIDE RECYCLING CALENDAR								
JANUARY 20	04 FEBRUA	RY 2004	MARCH 2004	APRIL 2004				
SU MO TU WE TH	FR SA SU MO TU WI	E TH FR SA SU MO	TU WE TH FR SA	SU MO TU WE TH FR SA				
1	2 3 1 2 3	4 5 6 7	2 3 4 5 6	1 2 3				
4 5 6 7 8 11 12 13 14 15		1 12 13 14 7 8 8 19 20 21 14 15		4 5 6 7 8 9 10 11 12 13 14 15 16 17				
18 19 20 21 22		25 26 27 28 21 22		18 19 20 21 22 23 24				
25 26 27 28 29		28 29		25 26 27 28 29 30				
MAY 2004	JUNE		JULY 2004	AUGUST 2004				
SU MO TU WE TH	FR SA SU MO TU W			SU MO TU WE TH FR SA				
2 3 4 5 6	7 8 6 7 8	2 3 4 5 9 10 11 12 4 5	6 7 8 9 10	1 2 3 4 5 6 7 8 9 10 11 12 13 14				
9 10 11 12 13		6 17 18 19 11 12		15 16 17 18 19 20 2				
16 17 18 19 20	21 22 20 21 22 2	3 24 25 26 18 19		22 23 24 25 26 27 28				
23 24 25 26 27	28 29 27 28 29 3	25 26	27 28 29 30 31	29 30 31				
30 31 SEPTEMBER 2	004 OCTOBE	ER 2004 N/	OVEMBER 2004	DECEMBER 2004				
SU MO TU WE TH			TU WE TH FR SA	SU MO TU WE TH FR SA				
1 2		1 2	2 3 4 5 6	1 2 3 4				
5 6 7 8 9		6 7 8 9 7 8		5 6 7 8 9 10 11				
12 13 14 15 16		3 14 15 16 14 15		12 13 14 15 16 17 18				
19 20 21 22 23 26 27 28 29 30		20 21 22 23 21 22 27 28 29 30 28 29		19 20 21 22 23 24 29 26 27 28 29 30 31				
20 21 20 25 30	31	1 20 29 30 20 25	30	20 21 20 25 00 31				
= WHITE WEEK	= BLUE WEEP			= HOLIDAY r call the DPW at 978-688-9570				
C	URBSIDE REC	YCLING WITH	I RED BIN ON	NLY				
Bins ca	an be purchased at the Di	PW Monday - Friday, 8	:30 AM to 4:00 PM for	a \$3.00 deposit.				
WHAT	YES	NO	HOW	WHERE & WHEN				
PLASTIC	 All # 1 & #2 Plastic containers with recycle 	No other plastic containers	Rinse clean Collapse or string	All recycling must be				
	symbol.	 No other symbols or 	together	curbside by 7:30 A.M.				
		numbers on bottom No plastic bags	Labels OK	- Recycling is				
		No caps		Mandatory				
STEEL "TIN"	Magnetic cans only	No aerosol cans	Rinse clean	Curbside pickup on				
	 Fully opened at one end 	 No other metal objects 	 If possible remove ild 	5				
CANS			and flatten	your recycling week				
CANS			and flatten Labels OK	your recycling week				
GLASS	Clear, green and brown	No other glass items No broken glass	Labels OK Rinse clean	Please refer to recycle calendar distributed				
	Clear, green and brown glass Bottles and Jars	No other glass items No broken glass	Labels OK	your recycling week Please refer to recycle				
	glass Bottles and Jars Newspapers with inserts	No broken glass No solled paper	Labels OK Rinse clean Labels OK Remove lids Place in paper bags	Please refer to recycle calendar distributed with red bin. If using another				
GLASS	glass Bottles and Jars Newspapers with Inserts Junk mail, magazines &	No broken glass No solled paper No other paper	Labels OK Rinse clean Labels OK Remove lids Place in paper bags or tie in bundles no	Please refer to recycle calendar distributed with red bin. If using another container with red bin				
GLASS	glass Bottles and Jars Newspapers with Inserts Junk mail, magazines & phone books Corrugated cardboard in	No broken glass No solled paper	Labels OK Rinse clean Labels OK Remove lids Place in paper bags	Please refer to recycle calendar distributed with red bin. If using another container with red bin				
GLASS PAPER, ETC.	glass Bottles and Jars Newspapers with Inserts Junk mail, magazines & phone books Corrugated cardboard in newspaper size bundle	No broken glass No solled paper No other paper No plastic bags	Labels OK Rinse clean Labels OK Remove lids Place in paper bags or tie in bundles no larger than 18"X18"X high	Please refer to recycle calendar distributed with red bin. If using another container with red bin other container must be				
GLASS PAPER, ETC.	glass Bottles and Jars Newspapers with inserts Junk mail, magazines & phone books Corrugated cardboard in newspaper size bundle Non-magnetic	No broken glass No solled paper No other paper No plastic bags No bottle or jar lids	Labels OK Rinse clean Labels OK Remove lids Place in paper bags or tie in bundles no larger than 18"X18"X	Please refer to recycle calendar distributed with red bin. If using another container with red bin other container must be				
GLASS PAPER, ETC.	glass Bottles and Jars Newspapers with Inserts Junk mail, magazines & phone books Corrugated cardboard in newspaper size bundle	No broken glass No solled paper No other paper No plastic bags	Labels OK Rinse clean Labels OK Remove lids Place in paper bags or tie in bundles no larger than 18"X18"X high	Please refer to recycle calendar distributed with red bin. If using another container with red bin other container must be				
GLASS PAPER, ETC. ALUMINUM CANS	glass Bottles and Jars Newspapers with Inserts Junk mail, magazines & phone books Corrugated cardboard in newspaper size bundle Non-magnetic Deposit & non-deposit cans	No solled paper No other paper No plastic bags No bottle or jar lids No ple plates or foll	Labels OK Rinse clean Labels OK Remove lids Place in paper bags or tie in bundles no larger than 18"X18"X high Rinse clean	Please refer to recycle calendar distributed with red bin. If using another container with red bin other container must be				

OTHER RECYCLING						
WHAT	ALLOWED	NOT ALLOWED	HOW	WHERE & WHEN		
YARD WASTE	 Leaves, wood chips, grass clippings, peat, sod, soll, shrub pruning, earth fili, loam, gravel, street sweepings 	Stumps Household trash Lumber Construction material Logs over 3' long	Permits are required for any yard material other than 100% grass and leaves \$7/season for auto trunk \$5/load for level plok-up \$30/load for large plok-up or 6 wheel dump truck	Leaves picked-up once in the fall - watch for announcement Bring to Cyr Recycling Center on Sharpners Pond Road Open April 1 to mid Dec. Tues., Thurs. & Sat. 8 to 3		
	COMPOST BINS CAN BE	PURCHASED AT THE DI	PW GARAGE 8:30 - 4:30 F	OR \$20.00		
CHRISTMAS TREES	Real trees only Remove all decorations	No artificial trees No wreath on wire	Curbside	- First two weeks of January		
			SIDENTS AT THE CYR RE			
APPLIANCES	Stoves, refrigerators, etc.	No doors on refrigerators, you must remove	 Call DPW to arrange for pick-up. \$25/appilance \$30/appilance with freon (Refrig., Freezer, A/C) 	Picked-up curbside at time set up with DPW		
USED MOTOR OIL OR USED OIL FILTERS	Only used motor oil Only used filters	 No gasoline or other hazardous chemicals 	Bring to drop off center at DPW garage	First and third Saturday of every month 9-12 noon Oil is .50 cents per gallon		
LATEX AND OIL PAINT		No other hazardous chemicals	 Bring to drop off center at DPW garage 	Third Saturday of month 9- 12 noon Cost \$3 per gallon		
CRT8	TV, VCR, monitor, keyboards	Do not break picture tube Keep all parts intact	Bring to drop off center at DPW garage	Third Saturday of month 9-12 noon \$5 per unit /\$15 for unit greater than 13*		
FLORESCENT LIGHT BULBS	All fluorescent bulbs	- Do not break	Bring to drop off center at DPW garage	Third Saturday of month 9-12 noon 'bulbs: 50¢/bulb 'bulbs: \$1/ bulb		
BALLASTS	All ballasts	Keep all parts intact	 Bring to drop off center at DPW 	Third Saturday of month 9-12 noon \$1.50 / ballast		
PROPANE TANKS	Propane tanks only	No other fuel tanks	Bring to drop off center at DPW	Third Saturday of month 9-12 noon \$2 per tank.		
AUTO BATTERIES		No household batteries	Bring to drop off center at DPW	Third Saturday of month 9-12 noon Cost \$2 per battery		
NICKEL CADMIUM BATTERIES	From power tools.	No household batteries	Bring to drop off center at DPW	Mon - Fri 9:00 to 4:00 Third Sat of month 9-12 noon		
CLOTHING	Re-usable clothing	No household Items No trash or toys.	 Bring to drop off center at DPW 	Mon - Fri 8:00 to 3:00		
MERCURY THERMOMETERS & THERMOSTATS	 Mercury containing thermometers & thermostats 	No broken units	Bring to DPW office	Mon - Fri 9:00 to 4:00 Third Saturday of month 9-12 noon		
SOFT AND HARD COVER BOOKS	All soft and hard cover books	Must be placed in cardboard boxes Must be kept dry.	Bring to DPW garage	Third Saturday of month 9-12 noon or by appointment.		

HOUSEHOLD HAZARDOUS WASTE DAYS WILL BE APRIL 17, 2004 AND OCTOBER 14, 2004

VISIT OUR WEB SITE AT www.northandoverwaterdept.com

Town of North Andover, Massachusetts • Annual Town Meeting Warrant • Finance Committee Report to Voters

The above two pages are what was most recently distributed to all residences. Since then some changes have taken place in what can be accepted (e.g., all plastics #1-7), fees charged (fluorescent bulbs may now be dropped off for free), etc. Some of those recent changes are reflected on the DPW's web site and some are not (as of today, October 20, 2004; cf. www.northandoverwaterdept.com/recycle%20&%20solid%20waste.htm).

Beyond all of the above, the Town of North Andover has voluntarily agreed to participate in certain State programs, for which participation they receive certain benefits in return, and has voluntarily entered into legally binding contracts with certain private corporations wherein each party agrees to obey all applicable laws and regulations.

One State program the Town participates in is the "DEP-Approved Recycling Program (DARP)" (http://www.mass.gov/dep/recycle/files/darpltr.doc). This program has certain requirements which require certain things of the Town as long as it is a participant in the program and continues to receive the benefits accruing therefrom.

The Town has written contracts with its trash hauler, Waste Management, Inc., and the incinerator at which it disposes of its trash, Wheelabrator North Andover, Inc. The Town has contracted with each of those corporations for them to provide certain services as agents of the Town in return for payments and other consideration from the Town. Each of those contracts includes similar provisions relative to solid waste, that no (or minimal) banned items will be collected, transferred, or brought to the incinerator.

The End.

